



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2682
www.raleighnc.gov

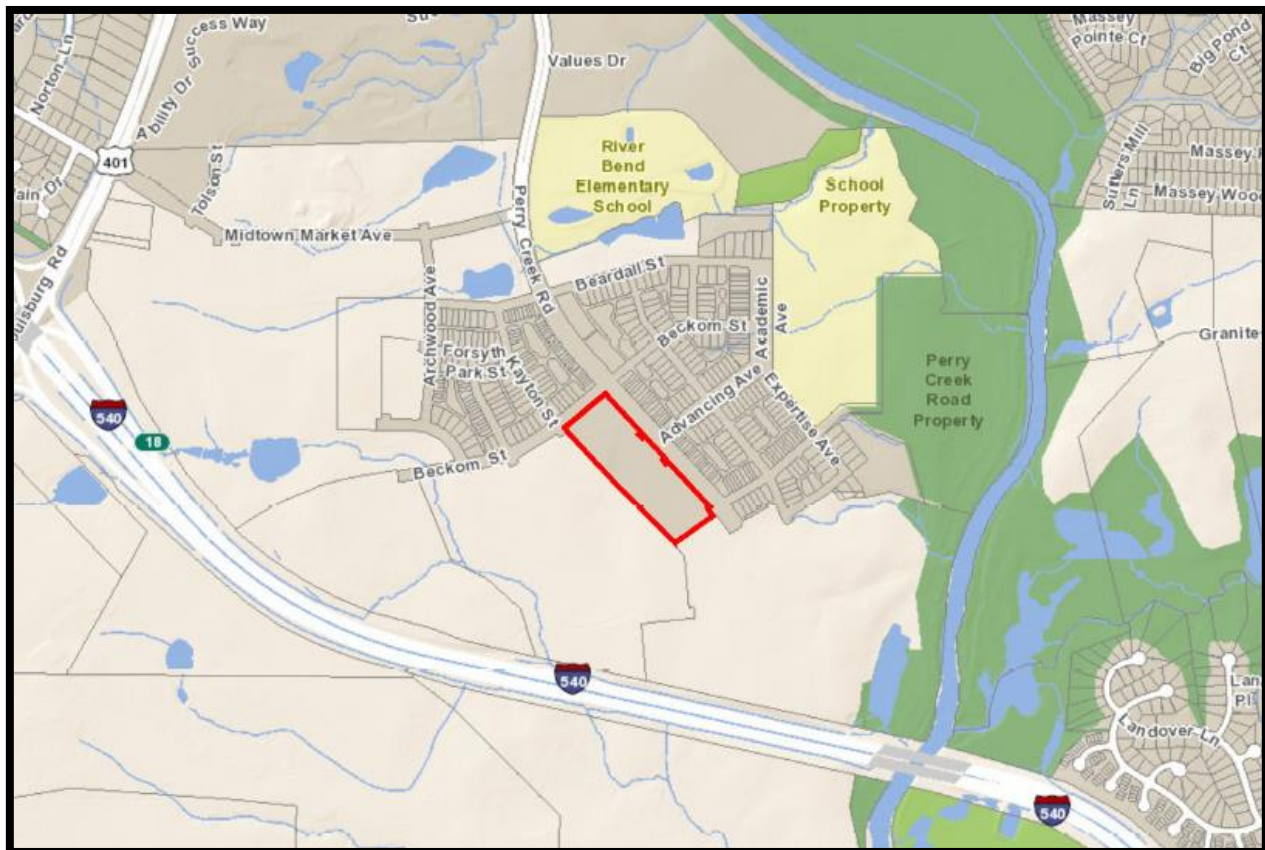
Case File: A-6-18

Property Address: 6401 Perry Creek Road

Property Owner: 5401 East Development, LLC

Project Contact: Collier Marsh

Nature of Case: A request for a special use permit pursuant to Section 6.7.3.G.5. and Section 10.2.9. of the Unified Development Ordinance to allow for a pool with a linear dimension greater than 65' and an area greater than 4,000 square feet on an approximately 2 acre portion of a 7.87 acre parcel zoned Planned Development and located at 6401 Perry Creek Road.

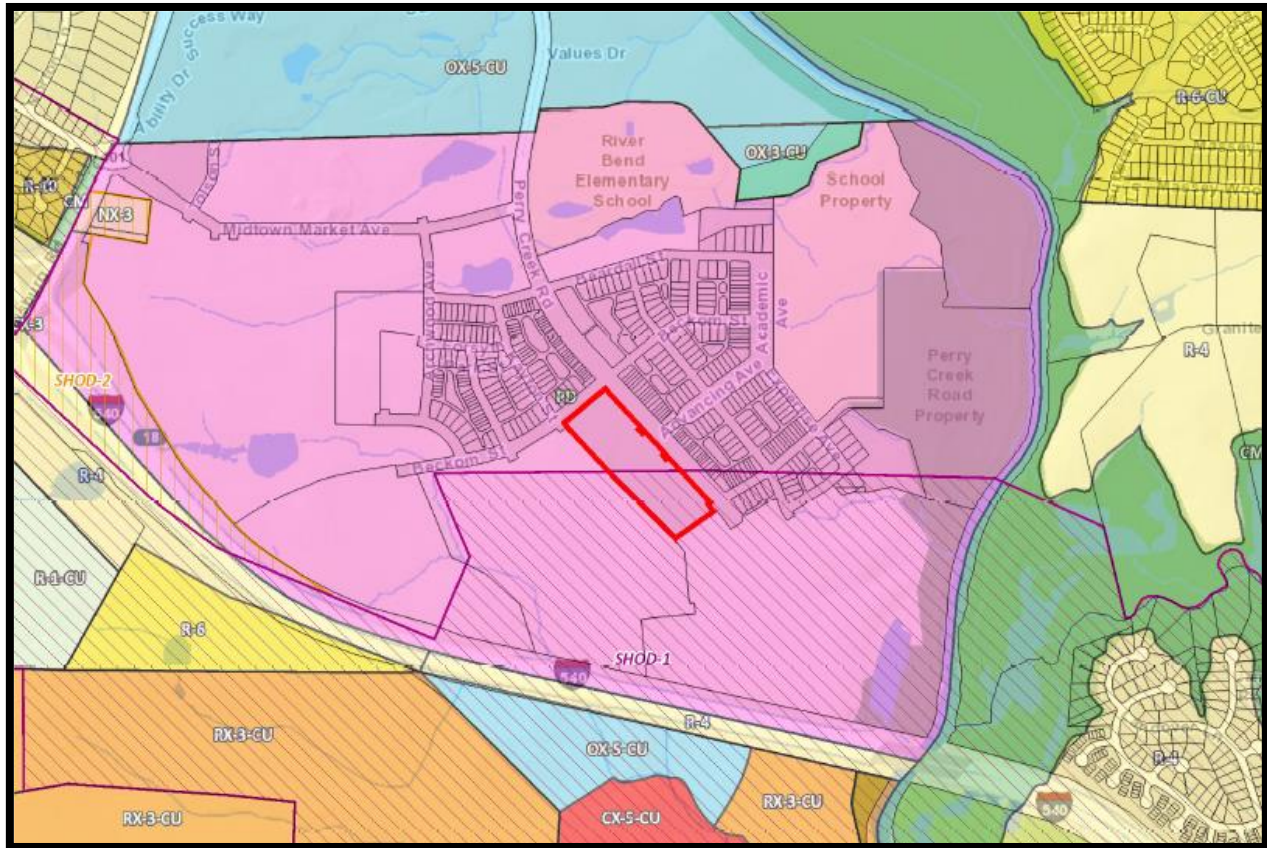


6401 Perry Creek Road – Location Map

To BOA: 1-8-18

Staff Coordinator: Eric S. Hodge, AICP

ZONING
DISTRICTS: Planned Development



6401 Perry Creek Road – Zoning Map

Section 10.2.6.E. Special Use Permit Showings

Before a request for a special use permit is granted, the Board of Adjustment must show that all of the following are met:

1. The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO;
2. The proposed use is allowed as a special use in the respective zoning district (see *Chapter 6. Use Regulations*);
3. The proposed use complies with any specific use standard listed in *Chapter 6. Use Regulations* without the granting of any variance to the specific use standard;
4. The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics;
5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset or the special use is denied;

6. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate;
7. Signage is suitable and appropriate; and 8. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.

Section 6.7.3.G. Recreational Use Related to a Residential Development

1. Recreational use is limited to the following facilities: clubhouse, docks, exercise rooms, game and craft rooms, gymnasiums, party and reception rooms, bicycle paths, pedestrian and equestrian trails, picnic areas, play courts, such as basketball, racquetball, and tennis courts, golf courses, driving ranges, play fields, playgrounds, sauna baths, swimming pools and tanning facilities.
2. These uses are allowed only as part of a residential development or subdivision, a compact development, a conservation development, a manufactured home development, or a congregate care facility. Such uses may be located outside of the boundaries of the development, provided that:
 - a. The lot is owned by the development (through its homeowners association or other similar mechanism); and
 - b. The lot adjoins the subdivision for at least 50% of its perimeter; or
 - c. The lot is located across a street or other right-of-way for at least 50% of its perimeter.
3. Nonresident memberships or fees paid by the general public shall not be permitted. This prohibition shall not be construed to disallow membership fees for residents of the development and their guests made on an installment basis of not less than monthly, rather than on any pay-for-use, hourly, daily or weekly basis. Membership fees are allowed for any recreational use related if it also complies with all regulations of a recreational use restricted to membership, either commercial or not for profit.
4. The recreation facilities shall be owned by either a not for profit organization, a homeowners association, or multi-unit development owner.
5. Any pool with any linear dimension greater 65 feet or with any area in excess of 4,000 square feet must be approved as special use permit in accordance with *Sec. 10.2.9*.
6. No signage, storage, merchandise, or display including display windows shall be visible from outside of the recreational use.
7. Parking for the recreational uses shall be provided in accordance with However, the number of required parking spaces may be reduced by the ratio of the total parking required for the residential uses that are located within 400 feet of the recreation use to the total required parking for all residential uses in the development.

Special Use Permit Application



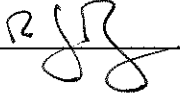
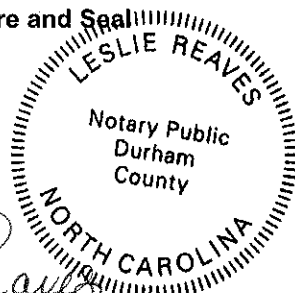

RALEIGH
DEPARTMENT OF
CITY PLANNING



For Submittal or Data

Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

<p>Nature of request (Submit addendum on separate sheet, if more space is needed.)</p> <p>The property owner is requesting a special use permit pursuant to UDO §6.7.3.G.5 to allow for a pool with a linear dimension greater than sixty five feet and an area greater than 4,000 square feet. The requested permit relates to the development of approximately two acres of a 7.87 acre parcel.</p>	<p>OFFICE USE ONLY</p>
<p>Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences. If this property was the subject of a previous special use permit request, provide the case number.</p>	<p>Transaction Number</p> <p>A-6-18</p>

GENERAL INFORMATION		
Property Address 6401 Perry Creek Rd., Raleigh, NC		Date 12/8/2017
Property PIN 1736786017	Current Zoning PD - Planned Development	
Nearest Intersection Perry Creek Road and Beckom Street	Property size (in acres) 7.87	
Property Owner 5401 East Development, LLC	Phone (919) 633-7656	Fax N/A
Owner's Mailing Address 7208 Falls of Neuse Rd, Suite 101 Raleigh, NC 27615		
Email randy@jpmsouth.com		
Project Contact Person Collier Marsh	Phone (919) 835-4663	Fax (919) 834-4564
Contact's Mailing Address 301 Fayetteville Street, Suite 1400, Raleigh, NC 27601		
Email colliermarsh@parkerpoe.com		
Property Owner Signature 		
<p>Notary</p> <p>Sworn and subscribed before me this <u>6th</u> day of <u>DECEMBER</u>, 20<u>17</u></p>	<p>Notary Signature and Seal</p>  <p></p>	

It is improper to contact any member of the Board of Adjustment prior to the disposition of a case to discuss the request. A Special Use Permit Application will not be considered complete until all required submittal components listed on the Special Use Permit Checklist have been received and approved.

5401 East Development, LLC
UDO §10.2.9 Special Use Permit Showings

1. **The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO.**

UDO § 6.7.3.G.5 specifically contemplates the proposed Recreational Use Related to a Residential Development (pool with a linear dimension greater than sixty five feet and an area greater than 4,000 square feet) subject to the issuance of a special use permit and the proposed use will comply with all applicable provisions of the UDO. The site has been included in subdivision plans that are currently under review to ensure compliance with the UDO. In addition, building permits for the proposed use will be required before construction can begin, which will further insure compliance with the applicable provisions of the UDO.

2. **The proposed use is allowed as a special use in the respective zoning district.**

The site of the proposed use is located in a Planned Development District. The proposed use is an allowed accessory use on the site as set forth in the corresponding Planned Development approval, zoning case Z-20-2010, and UDO § 6.7.3.G.5. The approved conditions in the relevant section of the Planned Development district include all residential uses. UDO § 6.7.3.G allows for Recreational Use Related to a Residential Development (including swimming pools) and UDO § 6.7.3.G.5 provides that any pool with any linear dimension greater than 65 feet or with any area in excess of 4,000 square feet related to a residential development must be approved as a special use permit in accordance with UDO § 10.2.9. The applicant requests the special use permit in order to provide a more appropriate scaled amenity for the surrounding neighborhood.

3. **The proposed use complies with any specific use standard listed in Chapter 6. Use Regulations without the granting of any variance to the specific use standard.**

The proposed Recreational Use Related to a Residential Development does not require the granting of any variance to the specific use standard.

4. **The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics.**

The proposed Recreational Use Related to a Residential Development is compatible with the residential use of the surrounding area. The location of the proposed use is well situated to the proposed neighborhood because it will be located at the intersection of two roads in order to minimize the number of adjacent residential lots and to maximize the distance from proposed homes. The scale of the proposed use is also compatible with the proposed residential community because its size is intended to provide a more appropriate scaled amenity for the community. The site design is compatible with the adjacent uses because proposed use will be located adjacent to a

public right of way and not the adjacent residential lots. There will also be fences, retaining walls, alleys and other facilities between the proposed use and adjacent residential properties. The recreational facility will be constructed by the developer of the subdivision and then turned over to the homeowners association for their continued ownership, operation and maintenance. By the nature of the makeup of the HOA Board, they will be inherently concerned about, and in control of, the hours of operation and operating characteristics of the amenity to ensure the use is compatible with the surrounding community.

5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset or the special use is denied.

The proposed Recreational Use Related to a Residential Development is intended to enhance and improve the standard of living in the neighborhood. It has minimal negative impacts and those have been addressed through location, good vehicular and pedestrian access, adequate parking, and landscaping. Any incremental negative impact caused by the larger pool allowed by the special use permit (as opposed to the smaller pool that could be built by right with no special use permit) is negligible.

6. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate.

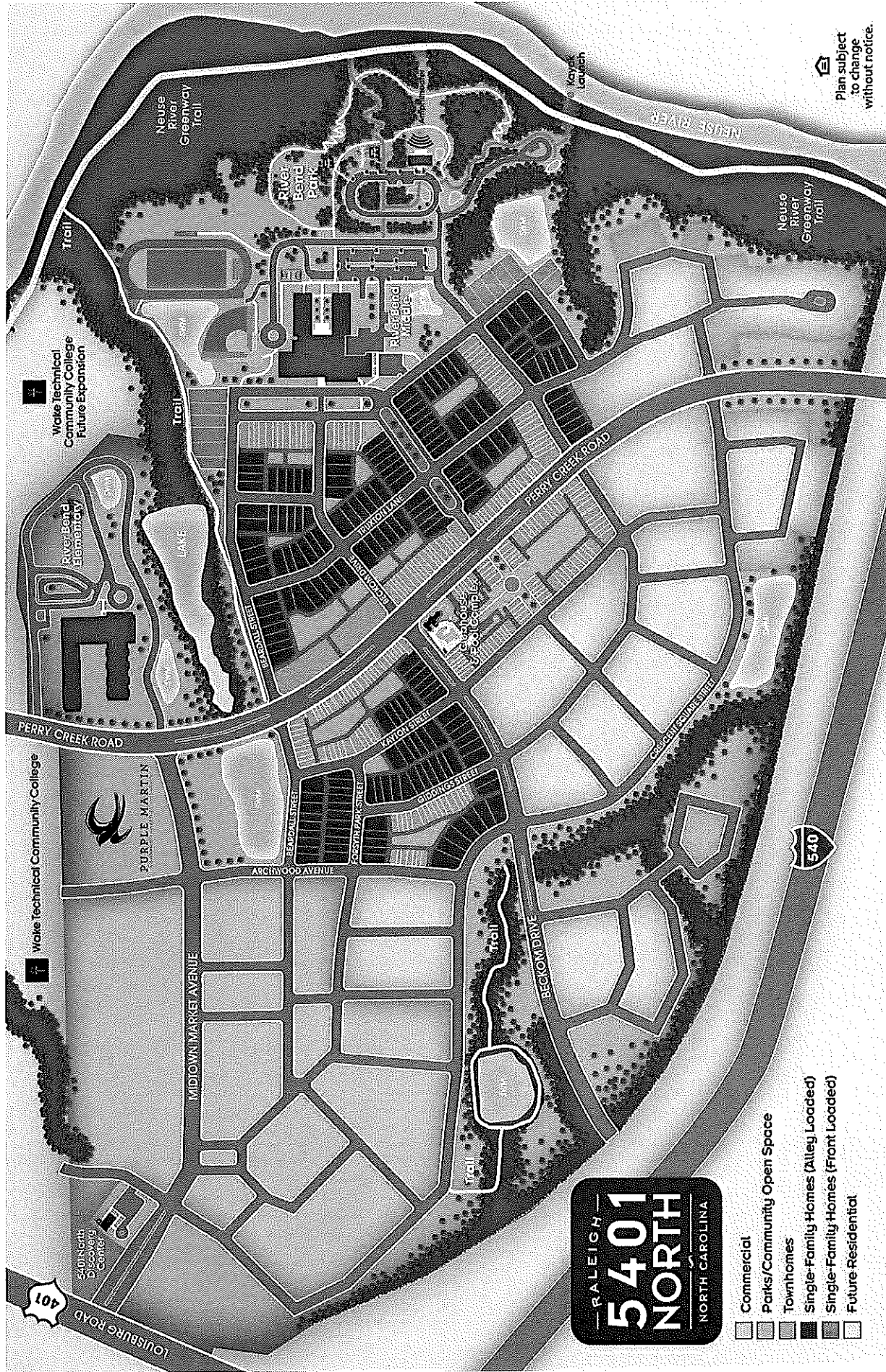
The subdivision approval process will ensure that the roads are all appropriately sized in accordance with UDO requirements for the subdivision to allow for adequate access. Sidewalks will be installed on both sides of the streets in the vicinity of the proposed recreational facility and sidewalks surround the proposed recreational facility for adequate pedestrian and bicycle access. Automobile and bicycle parking exceed the applicable requirements of the Planned Development. The facility will be located at the intersection of public streets that provide good access for emergency service vehicles.

7. Signage is suitable and appropriate.

At this point in time signage for the facility is still being considered. Whatever signage is to be installed will be in accordance with the provisions of the UDO. It should also be noted that the signage would be the same for this facility as it would be for a smaller pool that did not need a special use permit.

8. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.

All dedications of streets and utilities will be made with the recording of the record plat for the subdivision. All necessary infrastructure has either been installed or will be installed by the developer of the subdivision. Financial sureties have been posted with the City for any infrastructure that has not been installed to date.



Plan subject to change without notice.

RALEIGH
5401
NORTH
NORTH CAROLINA

- Commercial
- Parks/Community Open Space
- Townhomes
- Single-Family Homes (Alley Loaded)
- Single-Family Homes (Front Loaded)
- Future Residential

Owner	Mail Address 1	Mail Address 2
5401 EAST DEVELOPMENT, LLC	7500 PECUE LN	BATON ROUGE LA 70809-5107
COMPLIMENT, DALE COMPLIMENT, P	5301 BECKOM ST	RALEIGH NC 27616-6687
LENNAR CAROLINAS LLC	AVIATION PARKWAY STE 1500	MORRISVILLE NC 27560
LENNAR CAROLINAS LLC	AVIATION PARKWAY STE 1500	MORRISVILLE NC 27560
LEVEL CAROLINA HOMES LLC	6320 QUADRANGLE DR STE 100	CHAPEL HILL NC 27517-7890
LENNAR CAROLINAS LLC	AVIATION PARKWAY STE 1500	MORRISVILLE NC 27560
KIM, BO MI TOMPKINS, NICHOLAS R	5321 BECKOM ST	RALEIGH NC 27616-6687
LEVEL CAROLINA HOMES, LLC	7780 BRIER CREEK PKWY STE 420	RALEIGH NC 27617-7882
5401 EAST DEVELOPMENT, LLC	7500 PECUE LN	BATON ROUGE LA 70809-5107
5401 EAST DEVELOPMENT, LLC	7500 PECUE LN	BATON ROUGE LA 70809-5107